

BEST AVAILABLE C

REMARKS

In response to the Official Action dated 1/16/2004, the above-identified application has been amended in an attempt to place the claims in condition for allowance. Review and reconsideration are requested in view of the above amendments and following remarks.

Claims 1-5 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,458,606 to Cohen in view of U.S. Patent Application Nos. 2003/0083552 to Remijan et al. and 2002/0165467 to Rutenberg. It is stated that:

In reference to claims 1-5, and 9-12, Cohen discloses [the invention save for the introducer needle. Remijan et al. discloses applicant's claimed invention including an introducer needle. Rutenberg teaches of a cytological brush.]

The amendments to the claims define over the cited art. Cohen shows fluid tube 218 which inserts at one end into a connecting tube 220 for purposes of connecting to an irrigating port 206. These tubes 218 and 220 would not readily permit insertion of the tissue removal member which would not only require multiple bends to each the tube 210, but would be further hindered by the shrink tube 224 around the ends of the tubes 218 and 226. Tubes 226, 227 and 214 are similarly hindered. Cohen simply does not disclose, teach or suggest partitioned channels which define separate, continuous and unobstructed paths to an open surface end of the housing. Remijan et al. disclose only an endoscope and Rutenberg only a cytological brush. Cohen alone or in combination with Remijan et al. or with Rutenberg, neither disclose, teach or suggest the claimed combination. Withdrawal of the rejection is kindly requested.

In a teleconference, U.S. Patent 6,113,576 issued to Dance was brought to applicant's

AVAILABLE COPY

attention by the Examiner. This reference was asserted to show a similar housing.

It is respectfully submitted that Dance is directed to a Thrombolysis Catheter System with Fixed Length Infusion Zone. The classic definition of a catheter is a tubular instrument to allow passage of fluid into a body cavity or blood vessel and Dance teaches of a catheter system. To this end, Dance discloses a needle having a plurality of radial orifices to dispense fluid.

Dance discloses a method for treating obstructions mainly in a vascular system. The multi-lumen catheter system in Dance is manipulated through the vascular passageways by means of a fluoroscopic imaging system for visualization, utilizing radiopaque structures in the body of the catheter and using steerable guidewires. There is no apparent reference, teaching or suggestion to use a fiber optic component in Dance's catheter system or any disclosure, teaching, suggestion that the device be used diagnostically in a manner as set forth in the instant invention. Rather, before the Dance system is employed, a definitive diagnosis must be made radiographically that a problem exists in the vascular system and its exact local must be determined before treatment can proceed.

In the case of the present invention, there is no definitive diagnosis of the existence of any disease, particularly in that which pertains to the ovary. The claimed invention is employed diagnostically. Thus, it becomes a primary diagnostic tool which will be used routinely in the examination of the ovaries, as the PAP test is used to determine the health of the cervix. This is significant, because if the physician waits for the woman to become symptomatic, seventy-five percent of the time she will have progressed to Stage III carcinoma of the ovary. Prior to the instant invention, no such diagnostic device as claimed existed.

Part of the function of the claimed invention is achieved by the use of the optical fiber


BEST AVAILABLE C.

claimed, which makes it possible to maneuver the apparatus (scope) to the surface of the ovaries through the abdominal viscera toward the ovary for examination and/or a biopsy without the ability to visualize a pathway through the viscera. In order to facilitate maneuvering the scope in the viscera an adequate channel must be available for the introduction insulation with either gas or saline of the abdomen, but constant visual contact must be maintained with internal body parts to prevent puncture damage. This cannot be accomplished without an optical component. Further, the optic fiber works in tandem to enable the tissue removing brush to be co inserted through the in a manner to remove tissue from such areas in the least deleterious way.

For the reasons stated above, none of the cited references disclose, teach or suggest the claimed combination. The claimed invention is submitted to be patentably distinct over the art.

Accordingly, withdrawal of the rejections is respectfully requested and allowance of claims 1-12 is requested at as early a date as possible. This is intended to be complete response to the Official Action dated 1/16/2004. A petition for extension of time for three month extension with fee difference is submitted herewith.

Respectfully submitted,


R. William Graham, 33891
Certificate of Mailing

I hereby certify that this correspondence is being facsimile transmitted to the Patent Office Fax number 703-872-9306 thereon on the date shown below.

Date 7/12/2004


R. William Graham